



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Donald R. Brewer, et al
Serial Number: 10/087,245
Filing Date: March 1, 2002
Title: Timepiece
Group Art Unit: 2841
Examiner: Unknown
Docket Number: AFOSS.0107

Assistant Commissioner for Patents
 Washington, D.C. 20231

PETITION TO MAKE SPECIAL

Pursuant to 37 C.F.R. § 1.102(d), Applicant hereby petitions the Commissioner to make the subject application special so that it may be taken out of turn for immediate action. In support of this petition, applicants enclose the following:

- (1) A Declaration of the inventor, Diarmuid Bland, setting forth the fact that he believes the invention sought to be patented in this application is being infringed and the date when said infringement was discovered;
- (2) A Delcaration of the undersigned attorney in compliance with M.P.E.P. 708.02 II; and
- (3) A check in the amount of \$130.00 for the petition fee required under 37 C.F.R. 1.17(i).

An information disclosure statement was mailed on June 3, 2002. To date, no further action has been received from the Patent and Trademark Office.

Due to the fact that Applicant's claims are being infringed (see appended Declarations of Applicant and Applicant's attorney) and Applicant requires a patent in order to terminate such infringement, this Petition to Make Special is being filed.

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 TECHNICAL INFORMATION
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Applicant respectfully requests that this Petition be granted.

Respectfully submitted,

By:



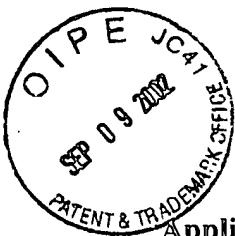
David W. Carstens
Registration No. 34,134

CARSTENS, YEE & CAHOON, L.L.P.
P.O. Box 802334
Dallas, TX 75380
972.367.2001 Telephone
972.367.2002 Facsimile

COPY OF PAPERS
ORIGINALLY FILED

Docket No. AFOSS.0107

Patent



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Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION OF DAVID CARSTENS, ESQ.

I, David Carstens, declare as follows:

- (1) I am attorney of record in the above-indicated application and have read the accompanying Declaration of Applicant, Diarmuid Bland.
- (2) As a result of reviewing this application and the prior art, I believe that all of the claims in this application are allowable. Prior art comparisons are briefly discussed below:

After an in depth prior search prior art search, the closest prior art was U.S. Patent No. 6,008,871 which in claim 5 discloses a liquid crystal display device comprising a reflective polarizer and a backlight assembly that can be varied to make a displayed color in an ON state and a displayed color in the OFF state where the colors have a complementary color relationship. In the OFF state, ambient light from above is converted to linear polarized light by a polarizer. The polarized light is reflected on the reflective polarizer back to the upper side resulting in a bright display of a first color. The first color is that of the reflective display of the liquid crystal panel and is a shade of gray. In the ON state, a portion of the linear polarized colored light from a backlight assembly passes through the reflective polarizer where data signals are used to change the

displayed colors into a complementary second color to counter visual display problems due to the mixing of the reflective and transmissive display modes and enable one to see the display.

However, there is no teaching to use the reflective polarizer to allow for the selection of colored backgrounds. Instead, the '871 patent discloses only "changing" the color of the light from the backlit assembly and does not change the color of the ambient light.

Another similar prior art patent found was European Patent No. EP 0 825 477 A2. This patent discloses a display device comprising a polarizer, a liquid crystal, a light scattering layer, a polarized light separator, a coloring layer and a reflective plate. In the OFF state, ambient light travels through the polarizer, the liquid crystal, the light scattering layer before being reflected back as a first colored white or transparent emission light. In an ON state, ambient light travels through the polarizer, the liquid crystal, the light scattering layer through a polarized light separator where the light becomes a second color emission light colored by the coloring layer.

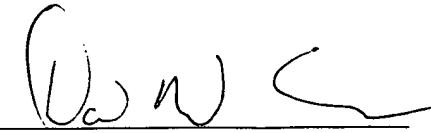
However, no teaching is provided for its use for colored backgrounds (i.e. other than white or transparent) in the OFF state. In addition, no teaching is provided for its use for colored backgrounds for watches or other apparel.

I have caused to be made a careful and thorough search of the prior art. None of the pertinent prior art, alone or in combination, discloses or teaches Applicants' invention.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and, further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such false statements may jeopardize the validity of this document and the application to which it relates.

Signed at Dallas, Texas, this 31 day of August, 2002.

By:



David W. Carstens
Registration No. 34,134

CARSTENS, YEE & CAHOON, L.L.P.
P.O. Box 802334
Dallas, TX 75380
972.367.2001 Telephone
972.367.2002 Facsimile



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U.S. PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. § 1.102(d)

I, Diarmuid Bland, declare as follows:

- (1) I am the Applicant in the above-identified application, which covers a timepiece with a controlled color change of the display.
- (2) On April 5, 2002, it came to my attention that Youngs Watch Co. Ltd. of Kowloon Bay, Hong Kong was distributing display color changing watches which I believed might be an infringement of the claims in this application.
- (3) I have compared the claims in the above-indicated application with the specimen display color changing watches distributed by Youngs Watch Co. Ltd., and it is my opinion that at least Claims 1, 13, and 18 of this application would be infringed by the manufacture, use or sale of said specimen.

For example, our claim 1 recites:

A watch face with a selective backgrounds comprising:

a polarizer layer for polarizing light passing therethrough;

a liquid crystal display selectively rotates or does not rotate polarized light;

a reflective polarizer layer located beneath the liquid crystal display and positioned in a first orientation relative to said polarizer layer, wherein rotated light reflects off the reflective polarizer layer producing a first background on the watch face and non-rotated light is transmitted through the reflective polarizer layer; and

a reflective layer disposed beneath the reflective polarizer layer wherein the light passed through the reflective polarizer layer reflects off the reflective layer producing a second background on the watch face.

Here, the infringing watch has a watch face which alternates or selects and displays two different background colors. The infringing watch has a polarizer layer for polarizing light to pass through, a liquid crystal display that selectively rotates or does not rotates polarized light, and a reflective polarizer layer located beneath the liquid crystal display. This reflective layer allows the infringing watch to produce a first background color on the watch face. The infringing watch also has a reflective layer disposed beneath the reflective polarizer layer and this reflection produces the second background color on the watch face. This infringes claim 1.

Claim 13 recites:

The watch face of claim 1 wherein the first background is a first color and the second background is a second color.

Here, the watch face intermittently changes between a blueish and a reddish watch face color. This infringes claim 13.

In addition, claim 18 is infringed. Our claim 18 recites:

The watch face of claim 1 wherein said watch face includes a hole extending axially therethrough to provide for movement of analog time watch hands.

Here, the infringing device includes a hole extending axially through the watch face to allow for movement of an hour, minute and second hands. Thus, claim 18 is infringed.

- (4) On April 17, 2002, I met with my company's patent attorney, David Carstens, Esq. I supplied him with a specimen of the product sold by Youngs Watch Co. Ltd. After careful consideration and discussion, it was the opinion of my attorney that the product of Youngs Watch Co. Ltd. infringed the claims of this application.

I declare that all statements made herein are true and further that these statement were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such false statements may jeopardize the validity of this document and the patent application to which it relates.

Signed at Richardson, Texas, this 26 day of August, 2002.

By:


Diarmuid Bland



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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

9

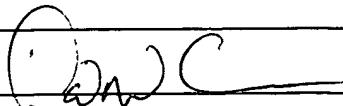
| | |
|------------------------|------------------|
| Application Number | 10/087,245 |
| Filing Date | March 1, 2002 |
| First Named Inventor | Donald R. Brewer |
| Group Art Unit | 2841 |
| Examiner Name | Unknown |
| Attorney Docket Number | AFOSS.0107 |

ENCLOSURES (check all that apply)

| | | |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Assignment Papers (for an Application) | <input type="checkbox"/> After Allowance Communication to Group |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment / Reply | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input checked="" type="checkbox"/> Petition | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | <input type="checkbox"/> Postcard Acknowledgement |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application | | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Remarks | |

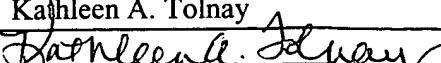
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | |
|-------------------------|---|--|
| Firm or Individual name | CARSTENS, YEE & CAHOON, L.L.P. | |
| Signature |  | |
| Date | September 4, 2002 | |

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date:

| | | | |
|-----------------------|---|-------------------|--|
| Typed or printed name | Kathleen A. Tolney | | |
| Signature |  | | |
| | Date | September 4, 2002 | |

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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for FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 130.00)

Complete if Known

| | |
|----------------------|------------------|
| Application Number | 10/087,245 |
| Filing Date | March 1, 2002 |
| First Named Inventor | Donald R. Brewer |
| Examiner Name | |
| Group Art Unit | 2841 |
| Attorney Docket No. | DFOSS.0107 |

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 50-0392

Deposit Account Name Carstens, Yee & Cahoon, L.L.P.

 Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 Applicant claims small entity status. See 37 CFR 1.27

2. Payment Enclosed:

 Check Credit card Money Order Other
 FEE CALCULATION**1. BASIC FILING FEE**

| Large Entity Fee Code (\$) | Small Entity Fee Code (\$) | Fee Description | Fee Paid |
|----------------------------|----------------------------|-------------------------------|----------|
| 101 | 740 | 201 370 Utility filing fee | |
| 106 | 330 | 206 165 Design filing fee | |
| 107 | 510 | 207 255 Plant filing fee | |
| 108 | 740 | 208 370 Reissue filing fee | |
| 114 | 160 | 214 80 Provisional filing fee | |

SUBTOTAL (1) (\$)

2. EXTRA CLAIM FEES

| Total Claims | Independent Claims | Multiple Dependent | Extra Claims | Fee from below | Fee Paid |
|--------------|--------------------|--------------------|--------------|----------------|----------|
| | | | -20** = | X = | = |
| | | | - 3** = | X = | = |
| | | | | | 0 |

Large Entity Small Entity

| Large Entity Fee Code (\$) | Small Entity Fee Code (\$) | Fee Description |
|----------------------------|----------------------------|--|
| 103 | 18 | 203 9 Claims in excess of 20 |
| 102 | 84 | 202 42 Independent claims in excess of 3 |
| 104 | 280 | 204 140 Multiple dependent claim, if not paid |
| 109 | 84 | 209 42 ** Reissue independent claims over original patent |
| 110 | 18 | 210 9 ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

| Fee Code | Large Entity Fee (\$) | Small Entity Fee (\$) | Fee Description | Fee Paid |
|---------------------------|-----------------------|---|-----------------|----------|
| 105 | 130 | 205 65 Surcharge - late filing fee or oath | | |
| 127 | 50 | 227 25 Surcharge - late provisional filing fee or cover sheet | | |
| 139 | 130 | 139 130 Non-English specification | | |
| 147 | 2,520 | 147 2,520 For filing a request for <i>ex parte</i> reexamination | | |
| 112 | 920* | 112 920* Requesting publication of SIR prior to Examiner action | | |
| 113 | 1,840* | 113 1,840* Requesting publication of SIR after Examiner action | | |
| 115 | 110 | 215 55 Extension for reply within first month | | |
| 116 | 400 | 216 200 Extension for reply within second month | | |
| 117 | 920 | 217 460 Extension for reply within third month | | |
| 118 | 1,440 | 218 720 Extension for reply within fourth month | | |
| 128 | 1,960 | 228 980 Extension for reply within fifth month | | |
| 119 | 320 | 219 160 Notice of Appeal | | |
| 120 | 320 | 220 160 Filing a brief in support of an appeal | | |
| 121 | 280 | 221 140 Request for oral hearing | | |
| 138 | 1,510 | 138 1,510 Petition to institute a public use proceeding | | |
| 140 | 110 | 240 55 Petition to revive - unavoidable | | |
| 141 | 1,280 | 241 640 Petition to revive - unintentional | | |
| 142 | 1,280 | 242 640 Utility issue fee (or reissue) | | |
| 143 | 460 | 243 230 Design issue fee | | |
| 144 | 620 | 244 310 Plant issue fee | | |
| 122 | 130 | 122 130 Petitions to the Commissioner | | 130.00 |
| 123 | 50 | 123 50 Processing fee under 37 CFR 1.17(q) | | |
| 126 | 180 | 126 180 Submission of Information Disclosure Stmt | | |
| 581 | 40 | 581 40 Recording each patent assignment per property (times number of properties) | | |
| 146 | 740 | 246 370 Filing a submission after final rejection (37 CFR § 1.129(a)) | | |
| 149 | 740 | 249 370 For each additional invention to be examined (37 CFR § 1.129(b)) | | |
| 179 | 740 | 279 370 Request for Continued Examination (RCE) | | |
| 169 | 900 | 169 900 Request for expedited examination of a design application | | |
| Other fee (specify) _____ | | | | |

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

130.00

SUBMITTED BY

| | | | | | |
|-------------------|---|-----------------------------------|--------|-----------|-------------------|
| Name (Print/Type) | David W. Carstens | Registration No. (Attorney/Agent) | 34,134 | Telephone | 972.367.2001 |
| Signature |  | | | Date | September 4, 2002 |

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